

REMARKS

This Supplemental Amendment and Response replaces the Amendment and Response filed on July 9, 2003. Upon further review of the Amendment and Response filed on July 9, 2003, it was realized that the Amendment and Response filed on July 9, 2003, incorrectly stated (1) that claim 1 was amended to include the limitations of claims 7 and 8 and (2) that claim 11 was amended to included the limitations of claims 18 and 19. Instead, claim 1 has been amended to include the limitations of claim 8 without the limitations of the intervening claim 7, and claim 11 has been amended to include the limitations of claim 19 without the limitations of the intervening claim 18. This Supplemental Amendment and Response also corrects a typographical error in claim 11, by inserting the label "c" before the third element.

The Applicant respectfully requests further examination and reconsideration in view of the above amendments. Claims 1-21 were pending in this application. Claims 1-7, 9-18, and 20-21 have been rejected. Claims 8 and 19 were objected to. Claims 1, 7, 11, and 18 have been amended. Claims 8 and 19 have been canceled. Claims 22-39 have been previously canceled. Claims 40 and 41 have been added. Accordingly, claims 1-7, 9-18, 20-21, and 40-41 are now pending.

Rejections under 35 U.S.C. § 103

Within the Office Action, claims 1-7, 9-18 and 20-21 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Number 5,846,622 to Imaeda (Imaeda). Independent claims 1 and 11 both recite "a preservative selected from the group consisting of Hydroxyalkyl-1-aza- 3, 7-dioxabicyclo(3.3.0) octane, Tetrachlorisophthalonitrile 1,2-Benzisothiazolin-3-one, and Phenoxyethanol." Imaeda does not teach this element. For at least this reason, claims 1 and 11 distinguish over Imaeda and are allowable. Because claims 2-7 and 9-10 depend from claim 1, they are allowable as depending from an allowable base claim. Similarly, because claims 12-18 and 20-21 depend from claim 11, they are allowable as depending from an allowable base claim.

Objection to claims 8 and 19

Within the Office Action, claims 8 and 19 are objected to as being dependent upon a rejected base claim. Within the Office Action it is stated that claims 8 and 19 would be allowable if rewritten in independent form to include all of the limitations of the base claims and any intervening claims.

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In response to the Office Action, claim 1 has been rewritten to include the limitations of claim 8 and now recites "a preservative selected from the group consisting of Hydroxyalkyl-1 -aza-3, 7-dioxabicyclo(3.3.0) octane, Tetrachlorisophthalonitrile 1,2-Benzisothiazolin-3-one, and Phenoxyethanol." The Applicant submits that the prior art does not recite such an element and thus claim 1 distinguishes over the prior art. For at least this reason, claim 1 is allowable. Because claims 2-7 and 9-10 depend from claim 1, they too are allowable as depending from an allowable base claim.

Similarly, claim 11 has been rewritten to include the limitations of claim 19 and now recites "a preservative selected from the group consisting of Hydroxyalkyl-1 -aza-3, 7-dioxabicyclo(3.3.0) octane, Tetrachlorisophthalonitrile 1,2-Benzisothiazolin-3-one, and Phenoxyethanol." The Applicant submits that the prior art does not recite such an element. Claim 11 thus distinguishes over the prior art and is allowable. Because claims 12-18 and 20-21 depend from claim 11, they too are allowable as depending from an allowable base claim.

For the reasons given above, the Applicant respectfully submits that claims 1-7, 9-18, 20-21, and 40-41 are distinguishable over the cited references and are in condition for allowance. Allowance at an early date would be appreciated. If the Examiner has any questions or comments, he is invited to call the undersigned at (408) 530-9700 so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
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Dated: July 28, 2003

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CERTIFICATE OF MAILING (37 CFR § 1.8(a))
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